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# **Export-Promoting Subsidies and What To Do About Them**

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Allegedly subsidized exports from developing countries are targets for countervailing import tariffs. But what are export subsidies? Should they be of concern?

Only when the United States started experiencing tough competition in world markets did the questions of fair trade and export subsidies move to center stage in the international trade discussions. But is "fair trade" a will-o'-the-wisp?

The 1970s Tokyo Round of multilateral trade negotiations produced a Subsidies Code. But neither subsidies nor countervailing actions have been constrained to the extent that negotiators of the code hoped. The code has evoked discord, partly because "export-promoting subsidy" is so difficult to define.

The United States has been the chief implementer of countervailing duties (CVDs) — many of them viewed as a form of harassment by foreign exporters, particularly of manufactured products. Few CVDs have been targeted

at the United States where — as in Europe — the most subsidized exports are agricultural exports that injure industries not in the importing countries but in other agricultural exporting countries.

Alternative approaches to that of the Subsidies Code are:

- Ignore domestic subsidies in exporting countries and focus only on export subsidies.
- Ignore the distinction between fair and unfair foreign competition and place all industry safeguard actions on one track.
- Attack import barriers, not subsidies, for without barriers to imports the extent of assistance tends to be limited by transparency and by fiscal considerations.

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## I. Introduction

Subsidies have been very high on the agenda of international trade negotiations over the past dozen years or so. "Fair trade", a term much in vogue in Britain in the late nineteenth century as that country experienced competition for its manufactures on the international market (Bhagwati and Irwin, 1987), has returned to be important in the vocabulary of those who determine the pace and outcome of international trade negotiations. The subsidization of exports is commonly regarded as an unfair trading policy, as is the "dumping" of its exports.

Import tariffs designed to countervail export subsidies have a long history. In 1890, the United States passed legislation to countervail foreign subsidies on sugar (Hufbauer and Shelton Erb, 1984, p.45), while rules governing the use of export subsidies and countervailing import tariffs have

been part of the General Agreement on Tariffs and Trade (GATT) since its inception in 1947. But it has only been since the United States started to feel severe competition on world markets that the question of subsidies has been moved to the centre of the international stage. The United States is by far the largest implementer of countervailing import duties (CVDs).

One of the main products of the Tokyo Round of multilateral trade negotiations, which concluded in 1979, was a "Code" which interpreted and extended the GATT provisions relating to subsidies and countervailing duties. The provisions of this Code relate mainly to manufactured products -- the Code, and the GATT itself, contain relatively weak restrictions on subsidies for agriculture. More recently, subsidies affecting agriculture have been receiving rather more attention -- efficient agricultural exporting countries have long complained about loss of markets due to agricultural subsidies in Europe and elsewhere.

This paper addresses the questions of what is a subsidy, which subsidies affect international trade, and why countries may wish to subsidize, particularly exporting industries. It considers the effects of these subsidies on other countries and why trading partners may wish to outlaw or countervail such export-promoting subsidies. The paper then outlines the provisions of the GATT and the Subsidies Code as they relate to subsidies; this is followed by some data on the extent to which these provisions have been used, and by a consideration of the purposes for which they appear, in fact, to have been used. The question is then raised as to whether or not the proscribing/countervailing approach is in fact the best way to constrain subsidies and whether, if such control is desired, other approaches may be preferable and feasible. To anticipate, it is suggested that there is, and

can be, no completely common ground on what is and is not a subsidy, or even an export-promoting subsidy, and that the processes for seeking countervailing duties are so open to abuse in practice, that beyond a very limited range of subsidies, the proscribing/countervailing approach is unlikely to be productive. To provide assistance to producers while limiting the demands on the public purse, most subsidies of consequence to international trade are buttressed by barriers to imports to the countries granting the subsidies. Reducing these barriers while maintaining the same level of price support to major industries would be very costly to national treasuries. This cost is likely to increase the political cost of the subsidies and thus constrain them.

## II. What is a Subsidy?

### (i) Level Playing Fields

In recent years there has been a great deal of talk by politicians and others regarding "level playing fields". Such a field appears to be viewed as one in which firms compete for markets without assistance from their governments, that is, without subsidies in one form or another. But in considering which government actions may be regarded as providing subsidies, the term subsidy can be all-embracing. Virtually every government action can be regarded as a subsidy for someone. And virtually all such actions can impact on exports. Even a requirement that domestically manufactured flags be flown on government buildings provides assistance for flag makers. By giving a secure home market and promoting economies of scale, such a regulation may

assist potential exporters. Is it to be regarded as an export promoting subsidy?

Confining the concept of a subsidy to where there is a direct transfer of goods, services or money from the government limits the field but does not solve all the problems. Such a definition would exclude tax exemptions, freedom from environmental regulations, etc. Furthermore, how specific does the transfer have to be to count as a subsidy? Paving a suburban road out of public funds assists all business firms that use the road, and so does the building of a road to a remote mining site. To calculate whether subsidies are involved in each case involves complicated calculations of costs, use, and taxes paid by the users. Also there is no general agreement as to what constitutes a "proper" role of government in many forms of economic activity -- education, for example. Is "free" education for electronic wizards a subsidy for the electronics industry? But what if education is free for all professions and skills? Does it involve a subsidy only if it is free for some skills and not for others?

But there are other more subtle problems. There are many other forms of assistance in an economy that have very similar effects to direct subsidies. For example, taxing the imports of cars assists the domestic car manufacturing industry just as surely as does a direct subsidy to that industry. What is the logic of regarding one as fair assistance and the other as unfair? And then there are very indirect effects: subsidizing imports of some products will, through its indirect effects on the exchange rate for example, assist exporters of other products (in the same country) much as would a subsidy paid directly to them. But who would argue that subsidies to

imports of manufactured goods provides unfair assistance to agricultural exporters of the same country?

All this may be counted as no more than sophistry were it not for the pressure emanating from the United States in particular, regarding "level playing fields" in international commerce. Given this focus, is it then possible to attempt to limit the argument to defining types of subsidies that are of concern to international trade? Enough has been said already to indicate that focussing on impacts on international trade does not make things much easier, for there can be few government actions that do not have effects, however indirect, on exports or imports. To limit the coverage, the international negotiating community has concentrated mainly on those actions that assist industries rather directly to compete on their export markets. Subsidies for imports are rare and as they benefit foreign exporters have been ignored in international negotiations. Subsidies for import-competing production have had relatively little attention paid to them. Barriers to imports have always been of major concern to the negotiators but, by and large discussion, negotiation, and rules regarding barriers to trade have been kept quite separate from those relating to export-promoting subsidies.

#### (ii) Export and Domestic Subsidies

With the attention narrowed in this way, another distinction is of importance. This is between those subsidies that directly promote exports and those which do so incidentally. The contrast is between a subsidy on exports per se, and a subsidy that assists the production of particular industries but which impacts on exports when some of the output is exported. The attempt to



provide specific rules in an international forum to control the use of the latter, domestic, form of subsidy under is relatively new.

It is relatively easy to define an export subsidy, at least in principle. It is any government action that discriminates between sales for the domestic and foreign markets, and favours the latter. A domestic subsidy, on the other hand, relates to all production whatever its destination. Discrimination according to destination is the core of the matter. But even this relatively clear and simple concept runs into problems. The following are some of them.

(i) When a country has a system of value added taxation, is the exemption from such taxation of the value added on exports to be regarded as an export subsidy? The generally accepted answer to this is that countries choose between origin and destination forms of value added taxation. A destination based tax, which is the common form of the tax, applies the full value value added tax to imports and zero rates exports. Such treatment is not generally regarded as an export subsidy.

(ii) A country may have a plethora of import restrictions and export taxes and subsidies. A subsidy on the export of product X may be doing nothing more than partially negating the adverse effects on exports of X of all the other taxes on trade. Is such a subsidy really a subsidy? What if product X itself bears export taxes as well as export subsidies? Should they be netted out to calculate a net tax or subsidy? (The answer to this may seem obvious, but such netting out is not allowed under the United States' countervailing duty law.)

(iii) Is a production subsidy to be regarded as an export subsidy when there are no, or few, domestic sales? If so, what is the dividing line?

(iv) Is exemption for a particular product from an export tax that other exported products must bear to be regarded as an export subsidy?

(v) If different products are exported at different exchange rates, how is one to calculate whether one product's exchange rate is to be regarded as a subsidizing or taxing exchange rate?

(vi) Favourable credit terms for exports are clearly a form of subsidy. But what if credit in general is rationed and exporters (or exporters of some products) are able to get credit more readily than others? Is this a subsidy? How could the subsidy element of such treatment be calculated?

(vii) Is the refund of import duty on the imported content of exports to be regarded as an export subsidy? If not, then how many stages back in the production process does one allow for such import duty refunds? (For example, does one allow refunds of duty paid on imports used by a supplier to the exporter, or by a supplier to the supplier? And what about imported capital equipment used by the exporter, or imported capital equipment used by a supplier of components to the exporter, or by the supplier's supplier?) Allowing for refunds of tariffs paid by the exporter but not for those paid earlier in the production process will encourage backward integration by exporting firms, integration that may have no other economic merit.

(viii) How does one treat the special favours that are sometimes given to export processing zones with respect to labour laws, infrastructure, tax treatment etc.?

(ix) How is one to determine whether exports are subsidized in non-market economies?

These questions are the bread and butter of trade lawyers. Many are

complex, but at least the answers can be related to a clear principle -- differential treatment according to destination. In the case of domestic subsidies that may impact on exports, however, even the principle is not clear, despite attempts to deal with it through the specificity of subsidies. Here a fundamental problem revolves around what is, and is not, a normal or proper function of government. Much blood has been spilt over this issue, and the attempt by one country's government to take actions through countervailing duties against other countries according to what it deems to be the appropriate role of government (which may differ from the view of the next government in the same country), or to obtain a ruling from a multilateral body regarding this role, is doomed to irritate and, probably, fail.

To illustrate the point, the following are some of the questions that have arisen in relation to foreign challenges to domestic subsidies. (Mundheim and Ehrenhaft, 1984, pp.95-107)

(i) While free general education may not be regarded as being a subsidy, does the subsidization of the education of horticulturalists give an unfair advantage to flower exporters?

(ii) Does apartheid in South Africa give an unfair advantage to South African steel exporters?

(iii) Does the building of a wharf by a government provide a subsidy for fish producers and exporters?

(iv) Is the amount charged by the government to exploiters of a resource on public land relevant in determining whether exports of this resource are subsidized, even when the charge is the same whether or not the resource is exported?

(v) Government subsidies to the European consortium building the Airbus are regarded by some in the U.S. aircraft industry as comprising unfair competition. To others they appear little different from the assistance the U.S. industry obtains through large contracts for military and space research and development.

(vi) Are research and development grants to be regarded as export-promoting subsidies, even when the promotion of exports as such is not an aim of the grants?

Leaving the problems of defining and measuring subsidies, we now turn to consider why governments may choose consciously to subsidize particular activities, and particularly when these subsidies are perceived to have impacts on international trade.

### III. Why Subsidize?

Like all forms of government favours, subsidies may be granted for a number of reasons, many of which may be more of a political than an economic nature. We focus here on those reasons which may be termed economic, in that the intent of the government is to affect the structure of the economy in a manner that it deems to be of general benefit to the country's citizens. Before turning to export-promoting subsidies, the point should be made that if a government wishes to encourage a particular activity, a subsidy for that activity, paid for out of general taxation, will usually be the most efficient way in which to do it. (Corden, 1974, Chapters 2-4) That is, if a government wishes to encourage production of product X, it could do so by means of a

direct subsidy to production, by imposing barriers to imports of import-competing goods (tariffs or quantitative restrictions on imports, domestic content requirements as a condition of domestic production, and so on), or by subsidizing exports. A production subsidy will tend to be the most efficient means of assistance because it does not tend to raise the price of product X to domestic users of X -- it does not discourage the domestic use of the product the production of which it is designed to encourage.

In some instances, complications in administering a production subsidy, or difficulties in administering a production subsidy or in raising the taxes to pay for it, may shift the efficient choice towards, say, an import tariff (though probably never towards quantitative restrictions or content schemes), or an import tariff combined with an equal export subsidy, a combination that does not discriminate in favor of production for the home market. However there is a strong prima facie case for direct subsidies for the production of X, if increased production of X is the objective. It should be noted that the objective is being taken for granted -- it is another matter to ask whether the objective itself is sensible. The position is simply that if increased production of X is the objective a subsidy on the production of X will, in general, be the most economically efficient manner in which to achieve it. Similarly if a more technically educated citizenry is desired, a subsidy on technical education will tend to be the most economic way to achieve it, all things considered, rather than a subsidy on the production of high technology products, or a barrier to the imports of these goods. Again, if export promotion is desired, a subsidy on exports may be the most efficient way to achieve it, though this proposition is now the subject of further examination.

Perhaps the main reasons for governments seeking to promote exports are not too dissimilar from the ideas associated with the so-called mercantilists, the intellectual foundations of which appeared to be attacked so successfully by Adam Smith two hundred years ago. Very often the concepts are dressed up in new and sometimes sophisticated clothing, for the idea that exports are of special value to a country is particularly durable. The idea has been fostered by the success of export-oriented countries, for example Japan and the Republic of Korea, by the pressing demands of the servicing of debts in many countries, and by the need, in countries adopting an inward-oriented development strategy, to pay for essential imports.

For countries in which the structure of trade policy is geared to shield industries from import competition, it can be argued that exports are indeed generally of more value than other forms of production. Policies that restrict imports tend to appreciate a country's real exchange rate (that is, raise the relation between a country's price level and the price level abroad) and thereby make exporting less attractive as compared with producing for the home market. Export-promoting subsidies then help to offset this anti-export bias. While it would be more efficient to remove the policies that cause this bias against exports, in the absence of such removal export promotion may, within limits, improve the efficiency of resource allocation in a country. Indeed there is considerable evidence that export promotion in South Korea in the 1960s and 1970s did little more than offset the bias against exports produced by support for import-competing industries.

It is another question, of course, as to whether this policy of protection "all round" -- providing it for exporting as well as for import-competing industries -- will in fact bring improved resource allocation. It

can all too easily develop into a political economy in which returns to investment in influencing the government exceed the returns on investing in meeting the demands for goods and services. A more efficient policy could be to remove the barriers to imports but, given these barriers, export subsidies that are generally available will tend to improve the productive efficiency of a country.

Apart from countering the anti-export bias of other policies, what other economic reasons are there for promoting exports? As with all forms of assistance, "external economies" may provide a rationale -- that is there may be benefits that accrue to other members of the country for which the exporter receives no compensation. Goods that tend to generate such external economies will in general tend to be under-produced unless their production is encouraged by government support. What are these beneficial external effects that may flow from exports? It is perhaps easier to state the concept than to find specific examples. One example often mentioned is the benefits that can flow to other potential exporters from the pioneering of a market. Often, however, the pioneering firm will itself be able to recoup much of the benefits from pioneering (e.g. by acting as an agent for other firms, or selling its consulting services) in which case it may be well recompensed for the benefits it gives to other firms. But because they perceive potential benefits, governments often subsidize market development, or provide trade development and information services out of the public purse.

Another reason advanced for subsidizing exporters, in this case in the forms loan subsidies or risk insurance, is that commercial insurers or lenders may not be prepared to meet the risks they perceive on export markets, or that their charges for doing so may appear to be exorbitant. In some

markets these risks may include expropriation of property with uncertain compensation, or the imposition of exchange controls that do not permit the repatriation of profits. Whether in these circumstances there is a market failure that would warrant the government stepping in would need investigation in particular cases; it could of course simply be that commercial lenders and insurers are making a correct assessment of the risks involved.

The existence of a large external debt and the difficulty of servicing it may lead some governments to subsidize exports, although the countries that are attempting to promote exports in this way appear often to be countering the anti-export bias of other policies. Indeed debt itself does not provide a case for subsidizing exports. Production that reduces imports also provides the means to service debt -- what is required is an increase in the production of tradeable goods and services relative to the demand for them. So the existence of a debt servicing problem may provide a case for promoting all tradeable production (for example by attempting to depreciate the real exchange rate) rather than for subsidizing exports as such.

A form of export promotion that has received much attention in recent years is that associated with strategic trade policy. This term is used in a variety of ways, each implying that government assistance would enable a firm to achieve an objective in international markets, of national benefit, that would not have been achievable without the assistance. This implies that the probable benefits, whether they spill over into the rest of the economy or are captured entirely by the firm and its workers, are expected to exceed the probable total costs incurred, including the costs of the government assistance and those imposed on domestic consumers and firms. The essence of the idea is to assist in a competitive strategy in what is essentially a trade



war with foreign firms and/or governments. The aim of the strategy may be sustaining or developing a leading technological edge (secure and/or large scale production being judged to be necessary for the acquisition and development of this technology) and then obtaining the returns attributable to being first with the new technology; obtaining economies of scale that would then enable unassisted survival on the world market; simply driving competitors out of an oligopolistic market; or attempting to persuade a foreign government to desist from practices deemed to be harmful to the home country. The scope of strategic trade policy has been somewhat circumscribed by the GATT, but as it becomes more popular and, in some quarters -- including the quarters of some professional economists<sup>1/</sup> -- gains a respectability it lost in the 1930s (albeit dressed then in somewhat different clothes), it can be expected to place more and more pressure on GATT. Whether or not there is substance to the charge, the allegation that the export success of foreigners, particularly in "new" products, is due to assistance from their governments, is a potent political argument for like treatment.

#### IV. Effects on Other Countries

In considering the impact of export-promoting subsidies on other countries, it is helpful to make a distinction between those of a strategic nature, as referred to in the previous paragraph, and those that are

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1. A notable criticism of these views is provided by Jagdish Bhagwati in his acceptance speech on the occasion of the award of the Bernhard Harms Prize, Kiel, June 25, 1988.

introduced for other reasons. As far as strategic policies are concerned, and to the extent that the strategies have a valid economic base, countries that are the targets of the strategies are likely to be harmed by the policies. The appropriate nature of the response will be determined by perceptions of the nature of the "game" being played. (Conybeare, 1987, provides an exposition of various game plans and relates them to actual trade wars of the past.) Of course it could be that the supposed strategies of foreigners are more in the minds of the beholders than in reality, or that they are misconceived or ineffectual, in all of which cases an appropriate response may be to abstain from a game of competitive shooting oneself in the foot. But even if misconceived, foreigners' trade strategies could be damaging and may warrant a policy of offsetting the effects, or of attempting to get them to desist, rather than joining the strategic battle as such. Small countries, that cannot affect their terms of trade, of course have no scope for strategic trade actions.

As far as non-strategic subsidies are concerned, an important economic point is that all export-promoting subsidies, to the extent that they lower the export prices of the subsidizing countries, improve the terms of trade of other countries, considered as a whole. This does not mean that the terms of trade of other countries that are competing on the export market will be improved -- on the contrary, they will be worsened. But if a country is a net exporter of a product, the rest of the world as a whole must be a net importer of it. Thus an export promoting subsidy for a product of which a country is a net exporter, must improve the terms of trade of the rest of the

world as a whole. Net importers of the product are thus benefitted by countries' export subsidies.

From this point of view, then, export promoting subsidies are a relatively benign, if not beneficial, form of interference in international trade. They may be contrasted with barriers to imports which in general worsen the terms of trade of other countries as a whole and thereby have a detrimental effect upon them. (Snape, 1986) Those export subsidies that, from this perspective, are most harmful to other countries, are those where an importer of a product has, by means of the subsidies, been turned into a substantial net exporter -- these subsidies are inevitably accompanied by major barriers to imports into the country granting them. As noted below, without these barriers to imports, the subsidies themselves are unlikely to be maintained at such damaging levels. Why should governments of countries that can benefit from improved terms of trade seek to do anything about other countries' non-strategic export promoting subsidies?

As so often occurs in economic policy, there is a conflict here between the interests of the nation as a whole and the interests of one section of it. And, as also so often happens, those whose interests may be harmed are likely to be more concentrated and to have a larger per capita loss than those who gain, even though the gainers, and the total gain, may greatly exceed those who lose and the total loss. In the political race, then, the specific interests that are harmed by imports, including those imports that are subsidized as exports by foreign governments, are likely to have a head start. And such arguments as: "We can compete with Mexican companies, but we cannot compete with the Mexican government" (Chairman of U.S. Steel Corporation, letter to the editor, The Washington Post, December 9, 1983,

p. A22) strike a chord of sympathy even when considerations of trade strategy are not involved, and of course it is a simple matter to suggest that they are.

It is curious that there appears to be widespread acceptance that it is legitimate for foreign governments to restrict access to their domestic markets, and international agreements have aimed at proscribing some forms of this protection and binding and negotiating downwards other forms, rather than proscribing it across-the-board. On the other hand the view is widespread that it is illegitimate for foreign governments to assist their residents to export, particularly in competition with "our" producers. Thus import barriers are acceptable (or at least some forms of them are); export promotion is not and the competition resulting from this is often branded as unfair. From an economic perspective the asymmetry of attitudes is rather confusing, as also is the invocation of fairness. The distinction between fair and unfair trade tends to be as elusive as that other economic holy grail the "just price". There is no doubt that the whole concept of fairness, and the asymmetry of attitudes towards trade expanding and trade contracting actions, are heavily producer-oriented and reflect mercantilist perceptions of the role of international trade which have long been regarded by the bulk of the economics profession as fallacious. Nevertheless these perceptions do appear to have a powerful influence on policy.

Protection for farmers against imports has for long been regarded by governments in many countries as being in a special category. Whether it be to protect a way of life that is generally respected, to attempt to guarantee food security through self-sufficiency, to solve a problem of rural poverty, or simply because of the political power of farmers as a voting coalition,

price support and other assistance for agriculture products is endemic in Europe, Japan, and the United States, in particular. (OECD, 1987) On the international stage, the perceived problems associated with subsidies for manufactured products have largely been related to injury to import competing industries, and more recently to industrial strategies purportedly aimed at achieving a technological edge. For agriculture, however, subsidies have largely been directed towards import replacement, and have led to the spilling-over of production on to export markets, there to compete with the relatively unsubsidized exports of efficient agricultural exporting countries.

#### V. The Rules

The multilaterally agreed-upon rules on subsidies are found to be found in GATT, as modified after the GATT Review of 1954-55, and in the "Interpretation and Application" of the relevant GATT Articles agreed in 1979 as part of the outcome of the Tokyo Round of Multilateral Trade Negotiations -- particularly the interpretation and application usually referred to as the Subsidies Code. National legislation by major importing countries is generally consistent with these internationally agreed rules. As the United States has for long been a leader in interpretation, as part of its legislation is thought by some not to conform to the provisions of GATT, and as there has been a surge of countervailing duty cases there, particular attention is given to that country, as well as to agriculture and to developing countries, for both of which there are special provisions.

(i) The Articles of GATT

While the original GATT Articles as agreed in 1947 did not prohibit either production or export subsidies, the GATT Review of 1955 introduced a prohibition of export subsidies that result in a lower price for manufactured goods on the export market than the domestic market (Article XVI:4). (In fact such pricing would conform to dumping, as defined by the GATT.) A note to this paragraph explains that the intention was to abolish "all subsidies" (presumably all subsidies that promote exports of manufactured products, for there are separate provisions for primary products), but the Article itself incorporates the dual price test (i.e., export prices lower than domestic prices) to define the proscribed subsidies. While export subsidies for products sold competitively may be expected to bring prices on the export market lower than on the domestic market, production subsidies will not tend to have this effect.<sup>1/</sup> The 1955 amendment moved the GATT closer to the Havana Charter for the stillborn International Trade Organisation, but, significantly, the ITO Charter did not differentiate between manufactured and other products with respect to the dual pricing test -- all export subsidies that resulted in lower prices on the international than on the domestic market were to be proscribed (Jackson, 1969, p.371). The change can only be ascribed to growth of subsidized agriculture in industrial countries and of the

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1. While export subsidies can be expected to have this effect in a competitive market structure, and indeed it may have been the intention of this test to discriminate between export subsidies and other subsidies, export subsidies may not result in dual pricing when producers have some monopolistic discretion regarding the prices they charge. Indeed the threat of countervailing action in the presence of dual pricing would provide an incentive to producers not to price in that way.

political power of agricultural interests in these countries in the intervening years.

As far as primary products are concerned, the GATT (as revised in 1955) provides that "contracting parties shall seek to avoid the use of subsidies on the export of primary products", but if they do use subsidies, they should not use them in a manner "which results in that contracting party having more than an equitable share of world trade in that product" (Article XVI:3), a very vague prescription. Domestic subsidies to agriculture and barriers to imports of agricultural products have been virtually outside GATT control since a waiver was granted to the United States in 1955 for the import restrictions which were part of its agricultural price support program (Dam, 1970, p.260). Nevertheless, subsidization of agricultural exports is still, in principle, under GATT proscription when these subsidies result in "more than an equitable share of world trade", and in any case they are open to countervailing tariff action by importing countries, along with all other export promoting subsidies, as noted below. However, the inability of GATT procedures to constrain the actions of the EEC effectively following successful complaints under the GATT by Australia and Brazil regarding subsidized sugar exports, leaves little doubt that such subsidies are not under GATT proscriptive control in practice (Teese, 1982).

The GATT Articles permit the levying of countervailing duties, no greater than the amount of subsidy,<sup>1/</sup> if the government of the importing country determines that the effects of subsidies are such as to cause or

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1. The relevant Article refers to "bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product" (Article VI:3).

threaten "material" injury to an industry in its country (Article VI: 6(a)). It is this provision which has been most important in practice in discouraging export-promoting subsidies.<sup>1/</sup> GATT also allows countervailing duties by an importer (say country A) when subsidized exports by country B are displacing the exports of country C in A's market, and this loss of exports causes material injury to an industry in C [Article VI: 6(b)]. In practice country A may have no incentive to countervail for the benefit of an industry in C.

Article XVI: 1 of GATT provides that member countries must notify other members of any subsidy which "operates directly or indirectly to increase exports of any product form, or to reduce imports of any product into, its territory" and also of the extent and nature of the subsidy and the estimated effects on exports or imports, but it appears that this is frequently not observed. The other main Article of the GATT that relates to subsidies is Article XXIII concerning "nullification or impairment" of any benefits accruing under the Agreement. Thus if a country, in the course of trade negotiations, had agreed to bind a particular tariff (that is, in GATT language, has granted a "concession"), and another country then subsidized exports so as to get "under" that tariff, "nullification and impairment" could be deemed to occur. The matter could then be referred to members of GATT for multilateral resolution in accordance with the provisions of that Article. Negotiated benefits accruing to the offending party could be suspended.

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1. Export stabilization schemes for primary products are not deemed to be subsidies that can trigger countervailing actions or to result in "more than an equitable share of world trade" as long as export prices on occasion rise higher than domestic prices (Articles VI: 7 and XVI: 3, Ad).



(ii) The Subsidies Code

In 1979 the Subsidies Code emerged out of the Tokyo Round of multilateral trade negotiations. There are now over 90 Contracting Parties to GATT but by mid-1986 only about a third of these had signed the Subsidies Code. Developing countries in particular have been reluctant to sign it. The Code is an "Agreement on Interpretation and Application" of the relevant Articles (VI, XVI, and XXIII) of the GATT. Thus, the Code does not replace any of the Articles of the GATT and where particular matters are not dealt with in the Code, the provisions of the GATT must be presumed to remain. For example, although the dual pricing test (Article XVI: 4) is not referred to in the Code, it remains on the books -- though it is not utilized (Hufbauer and Shelton-Erb, 1984, pp. 47-8).

An important consideration concerning the Subsidies Code (and the other Codes and Framework Agreement negotiated at the Tokyo Round) is whether the provisions of the Code should be applied only to other signatories to the Code, or whether they should apply to all contracting parties to GATT. The matter is not unimportant, for under a grandfather clause of GATT, the United States is not required to apply an "injury test" in order to levy countervailing duties against subsidies granted by other countries, whether or not they are signatories to GATT. (That is, the "material injury" requirement of Article VI: 6(a) of GATT does not apply to the United States in that it was not consistent with the U.S. countervailing duty legislation that existed at

the time the GATT was first signed.)<sup>1/</sup> Under the Code, however, the United States is required to establish that there is material injury to a domestic industry prior to impose countervailing duties. The United States maintains that this provision applies only with respect to other signatories to the Code. Some other countries argue that Article I of the GATT has primacy--that "any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties." What is at issue is unconditional most-favored-nation (MFN) treatment, a fundamental principle of the GATT, expressed in its first Article. The attitude that the provisions of the Codes should be applied only to other signatories of the relevant Code is one of conditional not unconditional MFN (Hufbauer, Shelton-Erb and Starr, 1980, pp. 59-70) and is an important departure from the trading principles established in the post-World War II negotiations. (Snape, 1988)

The Subsidies Code distinguishes between agricultural<sup>2/</sup> and other products, between developed and developing countries, and between export subsidies and other types of subsidies. Though not as clear as it might be --

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1. This exemption from the injury test applies only with regard to products which are dutiable on import to the United States. Thus inter alia it does not appear to apply to imports that come in duty-free under the Generalized System of Preferences for developing countries: for countervailing duties to be applied against subsidized exports coming in duty-free under GSP, it appears that injury has to be established. Also, the exemption does not apply to a small number of countries with which the U.S. has trade agreements the provide for most favoured nation treatment.

2. It refers to "certain primary products" and, unlike the GATT itself, excludes minerals from these. Neither the Articles of the GATT nor the Codes cover services, with the exception of films for the cinema.

there is a good bit of vagueness which appears to be deliberate -- it also distinguishes between various levels of injury.

The Code continues the trend started in the GATT review of 1955 in attempting to distinguish between export subsidies and other subsidies (some of which may encourage exports) and in attempting to prohibit export subsidies (except on agricultural products and by developing countries). It provides an illustrative list of what are deemed to be export subsidies.<sup>1/</sup>

As far as agriculture is concerned, export subsidies are not prohibited by the Code for either developed or developing countries. Instead, the Code attempts, rather weakly, to define what the "more than an equitable share of world export trade" is which signatories should not capture by means of export subsidies (Article 10).

Export subsidies on manufactured products are not banned for developing countries; instead: "Developing country signatories agree that export subsidies on their industrial products shall not be used in a manner which causes serious prejudice to the trade or production of another signatory" (Article 14:3), and they "should endeavour to enter into a commitment to reduce or eliminate export subsidies when the use of such export

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1. In short, the list covers direct subsidies on exports, bonuses for exporting through currency retention schemes, reduced freight charges for exports, cheap inputs supplied by governments for use in exports, reduction or remission of direct taxes with regard to exports, excessive remission of indirect taxes (and import charges) on the products exported or any exemption or remission of indirect taxes and import charges on inputs into exports unless the inputs are physically incorporated into the export product, guarantees on export credits or insurance at premium rates that are "manifestly inadequate" to cover the long-term costs of the program, subsidized export credits, and any other charge on the public account having similar effects. The Code list is not intended to be exhaustive: other practices may be deemed to be export subsidies. It will be noted that the destination principle for taxation is adopted for indirect taxes (but only partly for indirect taxes on inputs) but not for direct taxes.

subsidies is inconsistent with ... competitive and development needs" (Article 14:5). Furthermore, when such a commitment has been entered into, countermeasures which might otherwise be authorized on a multilateral basis against the export subsidies, may not be undertaken by other signatories. These "multilateral actions" from which they are excused involve consultations, reconciliation and, ultimately, authorization of "such countermeasures as may be appropriate", but not, of course, countervailing duties imposed by individual importing countries.

For subsidies other than export subsidies, the Code takes a somewhat more permissive approach, but recognizes that they "may cause or threaten to cause injury to a domestic industry of another signatory or may nullify or impair benefits accruing to the interests of another signatory under the General Agreement, in particular where such subsidies would adversely affect the conditions of normal competition. Signatories shall therefore seek to avoid causing such effects through the use of subsidies" (Article 11:2). It is even more permissive regarding such subsidies when they are granted by developing countries, in that the multilateral track for action may not be taken against them unless nullification or impairment of tariff concessions or other obligations under GATT is found to exist. While at the end of it all, there appears to be little or no differentiation between developed and developing in the action that an importing country can take through the imposition of countervailing duties against subsidies, there is a considerable "understanding" written into the Code regarding the use of subsidies in developing countries. For example:

Signatories recognize that subsidies are an integral part of economic development programmes of developing countries (Article 14:1);

Signatories recognize that in developing countries, governments may play a large role in promoting economic growth and development (Article 14:7).

But in view of the similarity of possible countervailing action, this understanding does not appear to amount to much.

Permitted remedies under the Code are complex and, as noted, include both national action on the initiative of an importing country and multilaterally authorized actions. The latter vary according to many factors including whether they are in response to export subsidies or other subsidies, whether the subsidies are on agricultural or other products, and whether the subsidies are given by developed or developing countries. On this multilateral track, consultations between the parties are the most common form of action. More important to date and in the foreseeable future, are the provisions for countervailing duties to be imposed by an importing country, although for action against subsidies that affect another country's exports to a third market the multilateral path is likely to continue to be the only feasible one. To date, however, this track has proved to be slow and rather ineffective, as illustrated by the Brazilian and Australian experiences relating to subsidized EEC sugar exports, and by a continuing fight spanning many years between the U.S. and the EEC regarding pasta subsidies -- the issue here hinges on whether pasta is a primary product and on the size of refunds to pasta exporters of the excess cost of wheat purchased under the EEC's Common Agricultural Policy. (Stern, Jackson and Hoekman, 1986, p.29, and Financial Times, July 21, 1987) While the extent of injury to an industry that needs to be demonstrated for multilaterally-authorized action is generally less than for countervailing duties to be imposed by national

authorities after their own investigation, the wheels of the multilateral gods grind slowly, and often ineffectively.

Thus, the main source of remedy is in unilaterally determined countervailing duties. These can be imposed not only against those subsidies that are proscribed by the GATT or the Subsidies Code, but also against those which are not proscribed: material injury or threat thereof to an industry in an importing country is the crucial element. Part I of the Subsidies Code specifies the procedures which countries should follow in conducting investigations into whether material injury has (or will) occur, and principles for determining the causal link between subsidized imports and the injury. The Code provides for visible and public investigation, for consultations, and also states that it is the size of the subsidy, and not the amount of injury, that should determine the limits to the countervailing duty. The Code provides for price undertakings by exporters (that would remove the source of the injury) to be entered into, in lieu of countervailing duties. It also states that in determining injury there should be "an objective examination of both (a) the volume of subsidized imports and their effect on prices of the domestic market for like products and (b) the consequent impact of these imports on domestic producers of such products" (Article 6:1). It lists factors to be taken into account in determining the impact on prices and on domestic producers, but the attempt is far from satisfactory, as the Code itself implies. While as far as countervailing actions are concerned, there is no differentiation between export and other subsidies, an export subsidy would normally be in breach of a signatory's obligations under the Code and therefore could attract more severe

multilaterally-authorized (though nationally determined and imposed) action than other subsidies.

## VI. Agriculture

From the beginning, agriculture has been a problem for GATT, and much of the problem has surrounded the question of subsidies and their control. The GATT allows restrictions of imports where they are necessary to complement domestic restrictions on agricultural or fishery production. This provision was introduced to accommodate the farm price support programme of the U.S. The accommodation proved to be inadequate, and in 1951 the U.S. Congress passed legislation which could require the President to take action against imports that was inconsistent with U.S. obligations under the GATT. As a result in 1955 the U.S. sought and obtained a waiver from the relevant GATT obligations regarding agriculture; other countries then followed. As was detailed above, much of agriculture was thus removed from GATT coverage with respect to barriers to imports. The price supports (subsidies) that are buttressed by these barriers were thereby sustained and encouraged.

With the growth of protected European agricultural production and exports, the interests of the U.S. with respect to agriculture have changed substantially. Long having been the leading proponent of discipline on subsidies for manufactured products, the U.S. has now joined other agricultural exporters in pressing for the discipline to be extended to agriculture. During the Tokyo Round, the U.S. and the EEC clashed repeatedly on the attempt by the U.S. to bring agriculture under the general rule of GATT

(Winham, 1987, pp.156-7), an irony since it was the U.S. that led agriculture out.

The problems of excess agricultural production received attention at the Tokyo (1986) and Venice (1987) summit meetings of the heads of government of the seven leading developed nations. Also the August 1986 Ministerial Meeting of the "Cairns" group of fourteen countries that describe themselves as fair traders in agriculture "undertook to seek the removal of market access barriers, substantial reductions of agricultural subsidies and the elimination, within an agreed period, of subsidies affecting agricultural trade" within the context of multilateral trade negotiations. In the next month the Ministerial Declaration that launched the Uruguay Round of multilateral trade negotiations stated that the Contracting Parties to GATT had agreed that negotiations would seek to improve "GATT disciplines relating to all subsidies and countervailing measures that affect international trade" and that for agriculture in particular "negotiations shall aim to achieve greater liberalization of trade [by] ...increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes". Although it is not a member of the Cairns group, the U.S. has put on the table in the Uruguay Round negotiations a proposal that countries drop all forms of farm support by 1998. Presumably this would imply that all the provisions that apply in the GATT for taking action against subsidies that promote exports of manufactured products, would be extended to the products of agriculture. Finally, in the U.S.-Canada Free Trade Agreement signed on October 3, 1987 "The Parties have agreed that their primary goal with respect to agricultural subsidies is to achieve, on a



global basis, the elimination of all subsidies which distort agricultural trade and agree to work together to achieve this goal, including through multilateral trade negotiations such as the Uruguay Round". They also restricted a number of subsidies and introduced notification and dispute settlement procedures with respect to countervailing (and anti-dumping) duties.

## VII. Countervailing Duty Action

The United States has viewed the Subsidies Code as a means to bring changes in the trade policies of other countries, while others have feared over-enthusiastic application of CVD (and anti-dumping) procedures. (Beseler and Williams, 1986, pp. 9,16; Stern and Hoekman, 1987, p. 61) As noted above the U.S. has insisted on applying the benefits of the Code not just to other signatories of the Code, rather than to all members of the GATT, which in itself is an action of doubtful legality (Jackson ...), but only to those signatories that have adjusted their subsidy policies in a manner that the U.S. judges to be in conformity with the Code. (Hubauer and Shelton Erb, 1984, Appendix B) The Code does provide for non-application between any two signatories at the discretion of either; only the United States appears to have used this provision as a means to secure policy adjustments. The carrot/stick element of this as noted above is that, due to a grandfather provision of the GATT the U.S. does not apply an injury test prior to the imposition of countervailing duties against subsidized imports from any

Table 1

Countervailing duty cases			
<i>Number of countervailing duty cases, 1980-86</i>			
		<i>Against</i>	
	<i>By</i>	<i>Total</i>	<i>Excluding Chilean cases</i>
<b>I. Countries in which at least one countervailing duty case was initiated</b>			
United States	281	1	1
Chile	140	1	0
Australia	20	2	2
Canada	11	11	11
European Community policies <sup>a</sup>	7	11	6
Japan	1	2	1
Summary, Part I	460	28	21
As a percentage of all cases	100	6	7
<b>II. Countries in which no CVD cases have been initiated</b>			
Brazil	0	88	32
Spain	0	38	22
Argentina	0	32	6
Mexico	0	28	27
Peru	0	22	7
France	0	21	21
Korea	0	21	13
Other EEC member states <sup>a</sup>	0	126	117
Other countries (40)			
Summary, Part II	0	432	299
As a percentage of all cases		94	93

Source: Annex 8, tables 1 and 2.

a. In the EEC, the CVD instrument exists only for the community: member states do not have CVD mechanisms. Both member states and the Community provide subsidies that have been the object of CVD investigations in other countries.

Source: Finger (1987), p. 157.

country other than those that have signed the Code and which the U.S. judges to have fulfilled the provisions of the Code.

In addition to this restriction of the benefits of the Code, the U.S. is by far the largest initiator of countervailing duty actions. Table 1, which is drawn from data compiled under the direction of Michael Finger at the World Bank, shows that of 460 countervailing duty cases by all countries over the first seven years of the decade, 281 of them were in the United States. Chile accounted for 140, nearly all prior to March 1983, and virtually all not sustained. (Finger and Nogues, 1987, p.713.) Chile's actions followed a very rapid dismantling of other trade barriers in that country, and have been regarded by some other countries as misuse of the CVD provisions of the Code.<sup>1/</sup>

Table 1 also shows that the major initiators of countervailing duty cases had relatively few actions taken against them. To a large extent this is due to the fact that the most subsidized exports of the United States and Europe are agricultural products that injure industries not in the importing countries, but in other exporters. In such circumstances there is little or no incentive in the importing country to take countervailing duty initiatives. It is also true that many non-initiators use other forms of barriers to imports, often in a concealed form and with considerable bureaucratic discretion, instead of the highly transparent countervailing duty procedures.

The targets of CVD actions form a much larger set of the countries than the initiators. With or without the Chilean cases, Brazil is the most

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1. It is reported that Chile ceased to initiate countervailing duty actions following threats of retaliation. (Finger and Nogues, 1987, p.713n.)

frequent -- indeed speaking a Romance language appears to correlate well with being a target! About 60 per cent of all cases were against developing countries, and only one percent against non-market economies. (Finger and Olechowski, 1987, Table A 8.1 and Nam, 1987, Table 1.)

A CVD action may result in a countervailing duty being imposed or in the exporter agreeing to desist from subsidizing or to raise the export price. Such outcomes are successful from the point of view of the petitioner. On the other hand it may be determined that there was no subsidization or no injury (in the relevant sense) -- these outcomes would be unfavourable to the petitioner. As a third possibility the case could be withdrawn either voluntarily or under duress. Of all the products for which cases were initiated and decided over the seven year period, and excluding Chile for which only one of its 140 cases was decided in favor of the petitioner, about 60 percent of cases gave the petitioner a favourable outcome. The figure was 55 percent for the U.S.

An unfavorable decision for the petitioner does not imply that the foreign exporter is not harmed. Unlike domestic legal cases, there is no possibility of "costs" being awarded against the plaintiff, to be paid to an innocent defendant. Thus there is a relatively small disincentive for a firm that is suffering from import competition to petition for a CVD, particularly where, as in the U.S., a political climate has been fostered regarding the unfair trading practices of some foreigners and CVD actions are seen by the government as a disciplinary action on these foreigners. Many CVD actions, and particularly by the U.S., are widely viewed as a form of harassment of foreign exporters. (Finger and Nogues, 1987, pp.713-22).

### VIII. Evaluation of the Subsidies Code

There is a common view that the Subsidies Code has not worked well. Judgement should, of course, be formed on the basis of the objectives of those who sought the control of subsidies, in relation to other means of achieving the same aims, and by an assessment of the aims themselves.

The provisions of the Code for agriculture are weak and ineffective, in part reflecting the determination of the European Economic Community and some other countries to keep agricultural issues separate. (Winham, 1986, Ch.4) From the viewpoint of efficient agricultural exporting countries, the Code fails seriously at this point. The longstanding indifference to the position of these exporters has been a source of continual frustration for them. So too was the 1982 Ministerial Meeting of the Contracting Parties of the GATT, the final declaration of which the Australian trade minister angrily refused to sign. As noted above, some action directed at agricultural subsidies is now more likely to be taken, with the formation of the Cairns Group of agricultural exporting countries, and heightened U.S. concern regarding barriers to its exports. Statements from the summit meetings of the G7 countries, apparent effective inclusion in the Uruguay Round of MTN negotiations, and the tabling of a very challenging position by the U.S. in these negotiations, reflect this likelihood. On the other hand the determination of some governments (or at least some parts of them) in Europe, Japan, and the U.S. to maintain high prices for farmers severely circumscribes feasible action. Exports resulting from price support may be curtailed, but it is less likely that price support will be significantly reduced in these

countries unless it is brought much more under public scrutiny, for example by placing more of the burden of it on government budgets.

As far as manufactured products were concerned in the negotiations of the Subsidies Code, there was a marked difference between the United States and other participants. The U.S. was particularly concerned to secure discipline over other countries' export-promoting subsidies. Other countries were more concerned that discipline should be imposed on the use, by the U.S., of countervailing duties (Finger and Nogues, 1987, p.713 and Messerlin, 1986), the main focus being the grandfathered absence of a requirement that injury to an industry be established as a condition of the imposition of CVDs. As the U.S. now requires the injury test for exports of those countries it judges to have fulfilled the requirements of the Code, in this regard the Code must be judged at least a partial success by those who negotiated it.

Since the acceptance of the Subsidies Code, however, use by the U.S. of the CVD machinery has increased greatly. It is not clear to what extent each of the following has contributed to this: (a) the change in the U.S. trading position leading to more import competing industries seeking redress against injury; (b) active encouragement by the U.S. Administration of actions designed to exercise discipline over the trading policies of other countries; (c) possibly increased use of subsidies by other countries; (d) reduced tariff barriers negotiated in the Tokyo Round exposing more industries to import competition; and (e) increased reliance on litigation in general as a means to alleviate economic problems. Possibly all have contributed.

Use by other countries of CVD procedures has also increased since the negotiation of the Code -- European countries typically had used anti-dumping duties rather than CVDs, while until 1982 Japan had used neither. (Stern,

Jackson and Hoekman, 1986, p. 27) To the extent that CVD actions are a more transparent means by which to seek protection than many alternative means -- this transparency being an aim of the U.S. negotiators -- this greater use of CVDs can be regarded as success for the Code, and a move towards trade liberalization. But to the extent that these CVD actions have just added another avenue for protection, as is argued by some, the Code will have failed. The evidence is not yet clear on this issue.

What is clear however, is that considerable tension has been generated as the U.S. has negotiated with some countries regarding the eligibility of those countries for the "injury test" (Hufbauer and Shelton Erb, 1984, p. 122 and Winham, 1986, pp. 359-60), and as markedly different perceptions of what constitutes a subsidy have been manifest. Those few cases that have been brought under the multilateral machinery of GATT and the Code -- predominantly regarding agricultural subsidies -- have aired, if not accentuated, discord, and generally they have not been settled to anyone's satisfaction. (Teese, 1982, Hathaway, 1987, p. 106, Messerlin, 1986)

Are export-promoting subsidies increasing? There is a general perception that they are, both for agriculture and other products, but whether this is so or simply a perception as they come more into focus, is not evident. What is even less evident is what they would be in the absence of GATT and the Subsidies Code. However it is apparent that neither subsidies themselves, nor anti-dumping actions, have been constrained to the extent that those who pressed for them in the Tokyo Round had hoped. In addition more discord has attended the subject than they probably expected. A consideration of alternatives is appropriate.

### IX. Alternatives

While economists may argue that subsidies, like other government distortions of international trade, generally do more harm to the country imposing them than to others and do less harm to all than other ways of achieving similar objectives, this is not the common perception. To a very large extent it is the injury which subsidies may bring to industries in other countries that makes them of international concern, not the subsidies themselves. Even in the U.S. there would be little political mileage in attacking foreign subsidies that had no impact on international trade, or on U.S. trade for that matter. So in contemplating options for the future in the field of subsidies, one possibility that appeals to many economists (and others) is to drop the search for causes of international competition and to focus on the consequences. There are at least three major problems with this approach: (i) the view that is widely held in the U.S., that foreign governments are using subsidies as an element of strategic trade policy and that they need to be tackled head-on; (ii) the idea of "unfair" competition is useful for those seeking protection, for it is a potent political concept, and they will seek to retain it unless they can get the same assistance through other means; and (iii) while a government can deal with the consequences of foreign competition in its domestic market, its options to do so in foreign markets are limited. So before considering options for international action that involve indirect, rather than direct, attacks on export promoting subsidies, attention is given to a possible improvement more or less within the current framework.



### (i) Ignore Domestic Subsidies

This change would continue to admit the powerful political appeal of "unfair" trade but would also acknowledge the practical problems of specifying and measuring any subsidies except export subsidies and the international tensions that are generated by attempting to discipline them directly. For this purpose an export subsidy could be defined as any policy that distinguished according to destination, that is between domestic and foreign sales. This is much in line with the Subsidies Code concept of an export subsidy. As under the present regime, export subsidies could be both proscribed and countervailable. However, countervailable actions would be limited to export subsidies alone, leaving domestic subsidies untouched by countervailing actions, proscription, or exhortation. Retaining the proscription of export subsidies would enable action to be taken in a multilateral context when a country's exports are "damaged" by the export subsidies of another country, in a third market.

The second and third proposals, which are not alternatives to each other but can be regarded as complementary, are rather more radical in that they implicitly drop the distinction between fair and unfair trade and attack export subsidies indirectly rather than directly.

### (ii) Ignore the Source of Injury

It is unlikely that countries will foresake all provisions for safeguarding industries against foreign competition. Such safeguarding could be greatly simplified if the current distinction between fair and unfair trade as a cause of injury could be dropped. From an economic point of view it would, of course, be preferable if the criteria of injury for "safeguarding"

against injury could then be amended to focus on economy-wide rather than industry-specific effects. But even without this amendment, much could be gained in simplicity by repealing the special provisions covering subsidies and dumping and relying on the general safeguard provisions of Article XIX of GATT, which cover injury from "fair" competition, together with the nullification and impairment provision of Article XXIII. (See Barcelo, 1984; Corden, 1983, 1987) Simplification and consistency--and less protection through the "harassment" of exporters--would be achieved by getting all injury cases on the one track with the exception of "damage" in third markets where, as now, action can be taken under the nullification and impairment provisions (Article XXIII).

While this path has much appeal, the following points should be noted if reliance is to be placed on the existing safeguard Article XIX (Barcelo, 1977, pp. 842 ff.)

- o Unlike the Subsidies and Anti-Dumping Codes, the Article provides that the country taking action should grant offsetting "concessions", or face the possibility of retaliation.

- o Action taken under Article XIX must be non-discriminatory: if applied to any, it must be applied to imports from all sources. This may appear to discriminate against those who do not subsidize (or dump), but such would be a consequence of abandoning the distinction between fair and unfair changes in the prices of imports. Allowing selectivity of Article XIX safeguard actions has been sought by many countries, but it would be a very high price to pay. (See Tumlrir, 1985)

o Actions under Article XIX are viewed as temporary, giving time for adjustment. Action against subsidies and dumping, on the other hand, has no such adjustment presumption. The difference in practice does not appear significant, however.

o Barriers under Article XIX can be raised to any extent to ameliorate the injury. Unlike countervailing or anti-dumping duties they are not limited by the cause of the trouble.

o Article XIX requires "serious" not "material" (or less) injury, and this is regarded as being a higher injury test.

o The United States legislation for Article XIX action requires the imports to be a "substantial cause" of injury--not less than some other cause. Countervailing or Anti-Dumping duties can be imposed when the subsidy or dumping makes a much lesser contribution to injury of the relevant industry.

o Within the U.S. one effect of this change would be to reduce the automaticity of relief action, leaving more discretion with the President, and making action and procedures less subject to appeal through the courts.

### (iii) Attack Barriers Only

It is apparent that barriers to trade inflict much more harm on countries as a whole than do those actions that promote trade, and also that most of the subsidies that have a significant impact on international trade, are buttressed by barriers to imports. (Snape, 1987) All production and export subsidies raise the returns to domestic producers. They also impose a cost on national treasuries. The cost on treasuries is decreased if, for any level of price support, these subsidies are complemented by barriers to

imports of competing products -- these barriers enable the domestic price to be raised above world prices and thus put part of the cost of price support on domestic buyers of the product rather than on the national treasury. Reducing the barriers to imports would thus place a greater cost on the national treasury for the same level of price support. For whatever reason, assistance by means of barriers to imports appears much easier to obtain in most countries than assistance from the public treasury. The size of the "subsidy equivalent" of most forms of barriers to imports -- that is the cost of the price support provided by the import barriers if it were to be paid for by a direct subsidy rather than by barriers to imports -- is frequently greeted by disbelief. In the EEC and Japan for example more than 60 per cent of the estimated total cost of agricultural policy over the years 1979-81 was paid directly by consumers by means of price support, of which barriers to imports is the essential ingredient. (OECD, 1987, Annex III, Table 3) The cost to the EEC's budget of agricultural price support is already of major concern. How much greater this concern would be if the full cost were placed on the budget. Thus the reduction of barriers to imports is itself likely to constrain export promoting subsidies, including those subsidies that are regarded as comprising an element of strategic trade policy: the ability to attack is somewhat reduced if the domestic market is unprotected.

Although it is an indirect attack on export promoting subsidies, there are reasons for thinking that this approach may be more successful than attempts to constrain subsidies -- and particularly domestic subsidies -- directly. They are as follows:

(a) Barriers to imports are relatively easy to define. This is particularly true of import tariffs which are easy to measure as well as

define, but it applies to most other forms of import barrier as well.

(b) The major developed countries have generally shown themselves to be willing to negotiate with respect to import barriers on manufactured goods under the auspices of GATT (and within the Organisation for European Economic Co-operation, the precursor of the Organisation for Economic Co-operation and Development), and these negotiations have proved to be successful. It is true that these countries have seen themselves as natural exporters of a whole range of manufactured goods (and importers of others), but this balance of exporting and importing interests within the same country does not apply to agriculture -- at least as far as Japan and most of Europe are concerned.

So it will probably be easier to adopt this approach in manufacturing than in agriculture. The extent to which it can be adopted in the new negotiations in services has yet to be tested. But given the continued disputes that are likely regarding level playing fields and fair trade, it is likely that the approach that has by and large succeeded under the GATT will increase in appeal.

### References

- Barcelo, John J. III (1977), "Subsidies and Countervailing Duties -- Analysis and a Proposal", Law and Policy in International Business, Vol.9, No.3, pp.779-853.
- \_\_\_\_\_, (1984), "An Injury-Only" Regime (For Imports) and Actionable Subsidies", in Don Wallace Jr, Frank J. Loftus and Van Z. Krikorian, editors, (1984), pp.19-27.
- Beseler, J.F., and A.N. Williams (1986), Anti-Dumping and Anti-Subsidy Law: The European Communities (Sweet and Maxwell and ICC, London).
- Bhagwati, Jagdish N., and Douglas A. Irwin (1987), "The Return of the Reciprocitarians -- US Trade Policy Today", The World Economy, Vol.10, No.2 (June), pp.109-130.
- Conybeare, John A.C. (1987), Trade Wars: The Theory and Practice of International Commercial Rivalry (Columbia University Press, New York).
- Corden, W.M. (1974), Trade Policy and Economic Welfare (Oxford University Press, London).
- Corden, W. Max (1983), "Towards a Policy Synthesis: Panel Discussion 3", in William R. Cline, editor, Trade Policy in the 1980s (Institute for International Economics, Washington D.C., distributed by MIT Press), pp.739-46.
- \_\_\_\_\_, (1987), "On Making Rules for the International Trading System", in Robert M. Stern, editor, U.S. Trade Policies in a Changing World Economy (The MIT Press, Cambridge, Mass), pp.413-26.
- Dam, Kenneth W. (1970), The GATT: Law and International Economic Organization (University of Chicago Press, Chicago and London).
- Finger, J. Michael (1987), "Antidumping and Antisubsidy Measures" in J. Michael Finger and Andrzej Olechowski, editors, (1987), pp.153-61.
- \_\_\_\_\_, and Julio Nogues (1987), "International Control of Subsidies and Countervailing Duties", The World Bank Economic Review, Vol.1, No.4 (September), pp.707-25.
- \_\_\_\_\_, and Andrzej Olechowski, editors, (1987), The Uruguay Round: A Handbook on the Multilateral Trade Negotiations (The World Bank, Washington D.C..)
- Hathaway, Dale E. (1987), Agriculture and the GATT: Rewriting the Rules (Institute for International Economics, Policy Analysis in International Economics, No.20, September, Washington D.C.).

Hufbauer, Gary Clyde, and Joanna Shelton Erb (1984), Subsidies in International Trade (Institute for International Economics, Washington D.C.; Distributed by MIT Press).

\_\_\_\_\_, \_\_\_\_\_ and H.P. Starr, (1980), "The GATT Codes and the Unconditional Most-Favored-Nation Principle", Law and Policy in International Business, Vol.12, No.1, pp.59-93.

Jackson, John H. (1969) World Trade and the Law of GATT (The Michie Company, Charlottesville, Va.).

Messerlin, Patrick A. (1986), "Public Subsidies to Industry and Agriculture and Countervailing Duties" (Processed, The World Bank, Washington D.C.).

Mundheim, Robert H. and Peter D. Ehrenhaft (1984), "What is a "Subsidy"? A Discussion Paper", in Don Wallace Jr., Frank J. Loftus, and Van Z. Krikorian, editors (1984) pp.95-107.

Nam, Chong-Hyun (1987), "Export-Promoting Subsidies, Countervailing Threats, and the General Agreement on Tariffs and Trade", The World Bank Economic Review, Vol.1, No.4, pp.727-43.

O.E.C.D. (1987), National Policies and Agricultural Trade (Organisation for Economic Co-Operation and Development, Paris).

Snape, Richard H. (1986), "The Impact on Exporters of Import Restrictions", in K. Tucker and C. Baden Fuller, editors, Firms and Markets: Essays in Honour of Basil Yamey (Croom Helm, London and Sydney), pp. 201-24.

\_\_\_\_\_, (1987), "The Importance of Frontier Barriers", in Henryk Kierzkowski, editor, Protection and Competition in International Trade: Essays in Honor of W.M. Corden (Basil Blackwell, London), pp.215-32.

\_\_\_\_\_, (1988), "Is Non-Discrimination Really Dead?", The World Economy Vol.11, No.1 (March).

Stern, Robert M. and Bernard Hoekman (1987), "The Codes Approach", in Finger and Olechowski, editors, (1987), pp.59-66.

\_\_\_\_\_, John H. Jackson, and Bernard Hoekman (1986), "An Assessment of the Implementation and Operation of the Tokyo Round Codes" (Research Seminar in International Economics, University of Michigan, Seminar Discussion Paper No.174, Ann Arbor, Mi.).

Teese, C.F. (1982), "A View from the Dress Circle in the Theatre of Trade Disputes", The World Economy, Vol.5, No.1 (March), pp. 43-59.

- Tumlir, Jan (1985), Protectionism: Trade Policies in Democratic Societies (American Enterprise Institute for Public Policy Research, Washington D.C.)
- Wallace, Don Jr, Frank J. Loftus and Van Z. Krikorian, editors (1984), Interface Three: Legal Treatment of Domestic Subsidies (The International Law Institute, Washington D.C.).
- Winham, Gilbert R. (1986), International Trade and the Tokyo Round Negotiation (Princeton University Press, Princeton N.J.).



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